

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

SMITH INTERNATIONAL, INC.,	§	
	§	
Plaintiff,	§	
VS.	§	
	§	
THE EGLE GROUP, L.L.C.,	§	
DON M. EGLE,	§	CIVIL ACTION NO. H-04-4151
and	§	
DANIEL REES, as Trustee of the Trust	§	
for Michele A. Goethe Egle Trust for John	§	
M. Egle, Jr., and the Egle Trust for	§	
Lauren E. Egle,	§	
	§	
Defendants.	§	

MEMORANDUM AND ORDER

Pending before the Court is Defendants' application for costs. Plaintiff opposes the application on the grounds that it is premature, in light of Plaintiff's timely filed motion for reconsideration of the Court's grant of summary judgment, and that it does not provide sufficient detail to demonstrate that the costs claimed were necessarily incurred in the course of litigating this suit. The Court has now denied Plaintiff's motion for reconsideration.

Plaintiff is correct, however, in pointing out that a party seeking costs must demonstrate that those costs were necessary and were not incurred merely for the convenience of counsel. *See Fogelman v. ARAMCO*, 920 F.2d 278, 286 (5th Cir. 1991). Accordingly, Defendants' application for costs is **DENIED WITHOUT PREJUDICE TO REFILING** within fourteen (14) days of this Memorandum and Order. *See* FED. R. CIV. P. 59(d)(2)(B). Plaintiff must file objections, if any, to a refiled application within five (5) days of the filing of the application.

IT IS SO ORDERED.

SIGNED at Houston, Texas, on this the 29th day of March, 2006.

A handwritten signature in dark ink, appearing to read "Keith P. Ellison", written in a cursive style.

KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE

**TO INSURE PROPER NOTICE, EACH PARTY WHO RECEIVES
THIS ORDER SHALL FORWARD A COPY OF IT TO EVERY
OTHER PARTY AND AFFECTED NON-PARTY EVEN THOUGH
THEY MAY HAVE BEEN SENT ONE BY THE COURT.**